

II. RESTRICTION TO GROUPS I AND II TO ESTABLISH A PRIMA FACIE CASE.

In order to establish a *prima facie* case for restriction, related inventions require a showing of distinctiveness and reasons for restriction. MPEP § 805.05(c). Where the related inventions as claimed are shown to be distinct under criteria of MPEP § 806.05(c) - § 806.05(i), the Examiner, in order to establish reasons for insisting upon restriction must show by appropriate explanation one of the following: (a) separate classification; (b) separate status in the art when they are classified together; or (c) a different field of search. MPEP § 808.02.

In this Application, Groups I and II are classified by the Examiner in the *same* class, class 604. This identical classification fails to suggest that each Group has attained recognition in the art as a separate subject for inventive effort and also a separate field of search. Further, the Examiner contends that "the product as claimed can be used in a different process such as vascular treatments other than aneurysm repair." However, this explanation neglects to show how each Group, even classified together, has a separate status in the art. In both cases, the process of vascular treatment and aneurysm repair, the objective is repair. In the specification on pg. 16, ll. 17-20, Applicant expressly indicated that "the following descriptions of the preferred embodiments of the present invention are described, for purpose of example, in connection with the repair of an abdominal aortic aneurysm. The inventors of the present subject matter contemplate that the embodiments described herein are capable of use in the repair of other vessels and in other procedures."

Additionally, there is no indication (evidence) that it is necessary to search for one of the Groups in places where no pertinent art to the other Groups exists. There is also no clear indication of separate future classification and field of search of Groups I and II.

III. CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests that the Examiner withdraw the restriction requirement. In the event the restriction/election requirement is maintained, Applicant elects to prosecute Group II, claims 115-126, with

traverse. Should the Examiner believe anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact Applicants undersigned representative at the telephone number listed below. If an additional fee is required, the Commissioner is authorized to charge any deficiency or credit any overpayment to deposit account number 03-2469. Moreover, if the deposit account contains insufficient funds, the Commission is hereby invited to contact Applicants' undersigned representative to arrange payment.

Respectfully Submitted,

Date: December 5, 2002

A handwritten signature in black ink, appearing to read 'J. Coulby', is written over a horizontal line.

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